International Law and Diplomatic Relations International Leadership Center Understanding Crimes Against Humanity in South Sudan: Impact, Challenges, and Paths to Justice

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ABSTRACT

This dissertation investigates crimes against humanity in South Sudan, focusing on the socio-political challenges following its independence from Sudan in 2011. It examines the widespread atrocities during the civil conflict that began in December 2013, marked by ethnic violence, mass killings, and severe human rights abuses. Using a qualitative approach, the study analyzes secondary sources such as government reports, academic literature, and media accounts to understand the factors behind the conflict and the ensuing humanitarian crisis. Key findings reveal that despite the Comprehensive Peace Agreement (CPA) in 2005 and South Sudan's independence, the new state faced significant structural weaknesses. These included poor infrastructure, limited human capital, fragile political institutions, and pervasive corruption, all exacerbated by deep ethnic divisions. The study critically evaluates the judicial system's role in addressing crimes against humanity, highlighting its inefficacy and lack of legitimacy, which hinder post-conflict peacebuilding. The dissertation also assesses international interventions, particularly the deployment of peacekeeping forces under United Nations Security Council Resolution 2132, and their mixed success in reducing violence and protecting civilians. Additionally, it examines survivors' expectations of reparations, emphasizing the disparity between international justice standards and the reality in South Sudan's justice system. In conclusion, the research stresses the importance of establishing robust, inclusive legal frameworks supported by international cooperation to ensure accountability and justice for victims. It provides practical recommendations for policymakers, legal experts, and international organizations to strengthen judicial reform and peacebuilding in post-conflict settings. This work contributes to the broader discourse on state-building and transitional justice, offering insights to address crimes against humanity and promote sustainable peace in South Sudan.

Key words: Crimes against humanity, challenges and justice

1.0 INTRODUCTION AND THE BACKGROUND OF THE STUDY

The division of North and South Sudan in 2011 heralded the culmination of more than two decades of intense conflict between northern Arabs and southern non-Arabs. This separation foreshadowed the end of Sudan's civil war and opened a new phase for South Sudan as an independent state. Previously, the Sudan civil war manifested a ferocious intensity such that the regional community through the Inter-Governmental Authority on Development with support from the international community intervened to

resolve the conflict after the massive loss of human life and property. This intervention led to the establishment of the Comprehensive Peace Agreement (CPA) on the 9th of January 2005.[1]

However, this agreement emphasized finding immediate solutions to the conflict involving the Northerners and Southerners, and little attention was given to recognizing the existing differences between political actors pushing for the secession of southern Sudan. Nonetheless, a referendum vote yielded 99% support for South Sudan's secession from Sudan. Despite gaining independence, the prevailing social, political, and economic conditions connoted that South Sudan embarked on its new path as a fragile state. Sudan on the other hand, had to contend with the significant reduction of its territory and the loss of approximately 75 percent of its oil reserves to South Sudan[2]. Nonetheless, South Sudan had inherited a legacy of underdevelopment from years of marginalization epitomized by poor infrastructure, low human capital, limited financial resources, and weak civilian and security institutions. This fragile environment in which the new state found itself was further exacerbated by massive corruption in the government, disagreement among political leaders, and a trend of ethnic entrenchment in the society[3].

The increasing political tensions in December 2013 founded on rising suspicions, particularly in the executive arm, led to the outbreak of conflict. President Kiir had accused his deputy Machar of masterminding a coup attempt; an allegation that Machar vehemently denied. Noteworthy, although ethnicity did not account as an immediate cause of conflict, the warring parties exploited ethnic differences to settle political and ideological differences. The conflict was characterized by acts of war crimes such as genocide, forceful displacement, destruction of properties, and extreme violence against women and children. The two faces behind this conflict were Salva Kiir and Riek Machar[4].

During the early days of the conflict, three hundred civilians lost their lives following an attack on Machar's ethnic group (Nuer) in Juba on the 15th of December 2013. In retaliation, the Nuers plotted one of the deadliest revenge attacks on Kiir's ethnic group (Dinka), thus, entrenching the conflict even further as it spread rapidly to other regions. The conflict was further fuelled by Salva Kiir who declared Machar and his allied senior Nuer military commanders as active rebels against the government. The conflict continued undiminished for more than 20 months as regional neighbors struggled to make progress in negotiations under the regional umbrella of the Inter-Governmental Authority on Development (IGAD). For a long time, the absence of any unbinding commitment by the warring groups intensified the conflict as it spread to become one of the most ferocious civil conflicts witnessed in the first quarter of the 21st century.

South Sudan from the time of its independence, ranked among the most fragile states. This ranking has not yet improved over the years as it has continuously maintained the top five positions among the global most fragile states. The Fragile State Index provides an in-depth ranking of 178 states from the most fragile to the least fragile. The index measures the social, economic, and political pressures facing

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[1] Devon Cone, 'Still in Danger: Women and Girls Face Sexual Violence in South Sudan Despite Peace Deal', (Refugees International, 2019) 4.

[2] Amnesty International, 'Do Not Remain Silent: Survivors of Sexual Violence in South Sudan Call for Justice and Reparation' (July 2017) 9. A South Sudanese

[3] United Nations, 'South Sudan at 'Crossroads' as it Seeks to Combat Sexual Violence, says UN Official' (20 October 2014) <https://news.un.org/en/story/2014/10/481502> accessed 23 August 2021.

[4] Africa Renewal, 'UN SRSG for Sexual Violence in Conflict Condemns Use of Rape as a Tactic of War in South Sudan' <https://www.un.org/africarenewal/ news/un-srsg-sexual-violence-conflict-condemns-use-rape-tactic-war-south-sudan> accessed 12 July 2021.

South Sudan by looking at 12 key primary indicators including *security apparatus (SA; factionalized elites (FE); group grievances (GG); economy (EC); economic inequality (UD) human flight and brain drain (HF); state legitimacy (SL); public services (PS); human rights (HR); demographic pressure (DP); refugees and internally displaced people (RD); and external intervention (EX)*[5].

According to the 2019 Fragile State Index, South Sudan was among the most fragile states at independence after a long civil war with Sudan. The government was therefore lacking the necessary structures and institutions to effectively guide the country through post-conflict state-building processes. The fragility of South Sudan at independence facilitated corruption in government, marginalization of ethnic communities, and perpetration of impunity by both the government and militia groups. The prevailing status of the state denied the government legitimacy to guide the new country. Conditions became worse from the formation and regrouping of militia groups that could easily access weapons and ammunition from the previous war with the north (Sudan)[6].

1.1 Statement of the Problem

Immediately after the independence of South Sudan, two concerning issues for the new government were its ability to exercise sole ownership of violence as an instrument of the state, and its claim on legitimacy. Weber's characterization of a state emphasized its ability to have a monopoly over force. This argument has been reinforced by other realist scholars such as Waltz (1998: 28-34). However, whereas monopoly over the use of force is the key for the state in exercising control over other actors, other realist scholars such as Thomson et al., (1989) and Krasner (1999) have emphasized the need for this authority not to be misused or abused. Should the authority of a state over the use of force be challenged, the ramification is a cycle of violence that can subject fragile states to total collapse.[7]

The conflict that broke out in December 2013 was not only due to ethnicity but also because of sharp political differences between political leaders. Actors in both the government and opposition exploited historical ethnic differences to spark armed clashes and propel ethnic killings throughout the country. Widespread violence created a humanitarian crisis and aid agencies responded by withdrawing employees from South Sudan due to insecurity (Blanchard, 2013). Within three months of conflict, more than fifty thousand civilians were killed and approximately 120,000 people displaced[8].

Mobilization of the international community culminated in the passing of UN resolution 2132. This resolution authorized troops to be mobilized from other UN missions such as UN Operation in Cote d'Ivoire (UNOCI); UN Stabilization Mission in DR Congo (MONUSCO); AU-UN Hybrid Operation in Darfur (UNAMID); and UN Mission in Liberia (UNMIL). This united peacekeeping mission intervened in South Sudan under the banner of the United Nations Mission (UNMISS). The resolution further called

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[5] Amnesty International, 'Do Not Remain Silent' (n18).

[6] UNSC, 'Report of the Secretary General Report on Conflict-Related Sexual Violence' (16 April 2018) UN Doc S/2018/250 para 65.

[7] UNMISS, 'Conflict-Related Violations and Abuses in Central Equatoria: September 2018—April 2019' (3 July 2019) para 75.

[8]The most fundamental characteristic of a PoC site (in contrast to an IDP camp) is that they are situated within UN mission bases. This means that the

State's ability to exercise its powers within a PoC site remains at the discretion of the UN – thus offering an extra layer of protection to IDPs. PoC sites were established in South Sudan when the civil war broke out in 2013. They are considered a measure of last resort. Norwegian Refugee Council, 'Protection of Civilians Sites: Lessons from South Sudan for Future Operations' (31 May 2017).

for an immediate halt to fighting by all parties involved (UN Security Council, December 24, 2013). This resolution provided a clear demonstration of the conflict intensity.

However, fighting was not ceded as new incidences of violence accompanied by massive casualties continued to be reported in various parts of the country. The first significant decline in fighting was experienced in 2015 when a peace agreement was signed after regional mediation by the heads of state from Kenya, Uganda, and the Ethiopian prime minister. The mediation was boosted by immense international pressure on both Riek Machar and Salva Kiir following the release of a report by a UN panel of experts alleging that government and opposition forces targeted civilians (Aljazeera, August 27, 2015).

1.3 Purpose of the study

The main objective of this study is to examine the crimes against humanity in South Sudan.

1.4 Objectives of the Study

1. To find out the causes of the conflict leading to crimes against humanity.
2. To investigate the challenges to post-conflict peacebuilding

2.0 METHODOLOGY OF THE STUDY

This study adopts a qualitative research method. The study appropriates secondary data from government and NGO reports, academic articles, books, and newspaper reports from established print media houses to conduct an in-depth analysis of the study. The rationale for the selection of this design is that the study will gather qualitative data on South Sudan's crimes against humanity to demonstrate the challenges of state-building for the country. According to Marczyk et al., (2005:97), qualitative methodology enables a researcher to examine characteristics, attributes, or categories that can hardly be quantified. It goes beyond looking at how people perceive different issues but also why they perceive them that way.

3.0 LITERATURE REVIEW

3.1 The causes of the conflict leading to crimes against humanity

The oil narrative

Several scholars (Ballentine & Nitzschke, 2005: 6-7; Sachs & Warner, 2001: 827-838) have favored this narrative by postulating that the different factions (government and rebel groups) want to have absolute rights over oil fields and other natural resources. De Soysa (2003:409) although adopting a different set of case studies concluded that there is a very strong causal relation between natural resources and civil wars. To explain economic underdevelopment in most developing countries, especially in Africa, the natural resource curse has been widely cited by political economists who have linked natural resources with political instability[9].

For South Sudan, oil is the biggest GDP earner. Data from the World Bank (12 October 2018) highlights that the country ranks first on oil dependency as the main source of government revenue. Oil accounts for 98% of total exports and nearly 60% of its GDP. However, oil-producing regions like Upper Nile, Unity State, and Jonglei State have undergone the most ferocious violence during this conflict. There are extensive allegations that revenues from the sale of oil have been used to finance war and enrich a small group of South Sudanese elites (Bariyo, 2014). However, the government has continued to vehemently

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[9] *Ibid*.§ 40, emphasis added.

refute such claims by stating that oil revenues have been spent on paying the salaries of civil servants. According to South Sudan's government spokesperson: *"the oil money did not even buy a knife. It is being used for paying the salaries of civil servants"* (Reuters, February 20, 2014)[10].

Other scholars (Sefa-Nyarko, 2016: 194 and Johnson 2014: 167) argue that civil war in South Sudan cannot be examined through the natural resource curse as the primary cause. The first argument is anchored on the question of why other income earners such as agriculture would not generate conflict, creating an argumentative dilemma regarding the natural resource curse theories. There also lacks a clear explanation of the process that links conflict to resources. Literature on the connection between civil wars and natural resources needs to address alternative explanations. For example, the correlation between civil wars and natural resources may be the opposite such that, dependency on natural resources is the consequence of civil wars[11].

Secondly, natural resource narratives need to demonstrate which conflicts are impacted by which natural resources and how the availability of natural resources impacts the conflict durations (Hoeffler et al, 2001). Thirdly, the narrative that natural resources give militia groups and rebels chances to extort money from miners (Ross, 2002: 9 -10) fails to account for why efficient and effective security measures in mines have not been implemented neither does it justify why militia groups who may be capable of generating revenue by controlling natural resources would prefer to participate in protracted conflicts[12].

Availability of arms to civilians

The narrative on access to arms is essential in examining the conflict in South Sudan. The independence of South Sudan and the failure of the government to conduct an immediate disarmament of the public left thousands of civilians armed. Access to weapons enabled militia groups and civilians to take the responsibility of their security into their own hands, thus challenging the government's monopoly over the use of violence (O'Brien, 2009: 11). The recognition that thousands of arms are owned by civilians, led to calls by regional governments and humanitarian agencies to UN Security Council to put an embargo on weapons and other ammunitions to South Sudan. The challenge to this narrative is that it does offer reasons why individuals within the same society would be involved in killing other communities. This therefore necessitates the need to re-examine historical events, the role of leading individuals in society, and the question of ethnic identity[13].

The role of Sudan in the conflict

Several studies have alleged the involvement of Sudan in the woes that curbed the Sudan People's Liberation Movement. Reference is drawn to the provision of assistance to South Sudan Defense Forces between 1983 and 2005 to carry out attacks in southern Sudan (Young & Lebrun, 2006: 17) and protect government oil fields for Khartoum. At the time, SDDF was led by Riek Machar and other rebels who received arms and technical support later used to perpetrate serious atrocities such as the Bor Massacre in 1991 (Canadian Department of Justice, 2014). After secession, there was a conflict of interest regarding the border in the Abyei region that is endowered with oil between Sudan and South Sudan (Born & Raviv, 2017: 178). Sudan's conflict of interest has been highlighted as a factor contributing to conflict in the southern regions. This narrative is however criticized because a stable South Sudan is

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[10] *Ibid*. § 40, emphasis added.

[11] *Ibid*.,§ 40, emphasis added.

[12] *Idem,* footnote omitted

[13] *Idem,* footnote omitted

perceived as beneficial to Sudan because of mutual benefits such as the renewed positive image in the international system. This is true especially if it succeeds in supporting peace initiatives in South Sudan.[14]

Ethnicity in South Sudan Conflict

Ethnic identity is a common factor in conflicts not only within Africa but also across Europe, Asia, and the Middle East. South Sudan like many other multi-ethnic societies, has also been trapped in a cycle of political power competition that exploits ethnic identity as the primary base of attracting and establishing political support (Cheeseman, 2015: 8-15). Ethnicity in the South Sudan conflict is manifested in divisions within SPLM and the Bor massacre of 1991.

Divisions within SPLM. Sudan People's Liberation Movement was formed in 1983 drawing membership from southern tribes and other minority groups from the Sudan (Barltrop, 2010: 3-5). The establishment of SPLM by John Garang' was fundamentally to pursue the creation of a secular state through social, political, and economic reforms in institutions of government (Warner 2016: 6-13). However, despite the diversity of SPLM in terms of membership, the Nuer and Dinka tribes constituted the majority of members thereby giving the two ethnic communities leverage to occupy prime positions in the hierarchy of the organization[15].

The challenges that curbed SPLM such as financial and ideological differences among its top leadership were ethnicity by the dominant Nuer and Dinka tribes as they grappled to find solutions that would favor their ethnic groups (Janssen, 2017: 13). This led to the emergence of conflicting views within SPLM regarding unequal ethnic representation and power distribution (Mamdani, 18 February 2014). One group led by Akuot Atem Mayen, demanded for creation of an independent state for southern Sudanese, while the other group led by John Garang', advocated for reforms and rejected the idea of secession. Both of these groups received support for secession and reforms by the Nuers and Dinkas respectively (Kiranda et al., 2016). The splinter group that was later headed by Machar joined ranks with the Sudan People's Liberation Army (SPLA) in 1991, after a collapsed attempt to overthrow the leadership of John Garang[16]

The third split in SPLM occurred on 15th December 2013 when military factions allied with Salva Kiir and Machar clashed following weeks of tensions about leadership succession in SPLM (Johnson, 2014: 168). SPLM was getting ready to conduct its National Convention to discuss issues such as SPLM's presidential flag bearer for the 2015 presidential election; the constitution and code of conduct; and, the term limits of the party leader (Janssen, 2017: 12). During this intense period, an order to disarm Nuers within the presidential guard led to a mutiny.

This triggered revenge attacks on the Dinkas in Akobo and Bor by the Nuers (Johnson, 2014: 170). While the mutiny was regarded as a coup attempt by forces loyal to Machar, he managed to flee from the country while his troops clashed with government forces majorly comprised of the Dinkas. Ethnicity continues to remain a significant factor in South Sudan's conflict and politics.

Bor Massacre. The Bor massacre was perpetrated in the capital of Jonglei state which was occupied by most Nuers and a minority of Dinkas in 1991 (Wild et al, 2018: 2-11). Before the massacre, inter-

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[14] Draft Articles with commentaries, supra note 2, Article 6, commentary, § 47.

[15] *Ibid*., § 49, emphasis added.

[16] *bid*., § 51

community raids for livestock between these two groups were common (Glowacki & Wrangham, 2015: 349 -350)[17].

To have protection against the raids, both the Dinkas and the Nuers formed armed militias such as the Titweng and Nuer White Army respectively (Young, 2016). Riek Machar exploited the leadership struggles in SPLM to incorporate members of the Nuer White Army into SPLM-Nasir. The group has been accused of having orchestrated the Bor Massacre with the support of Khartoum in southern Sudan. Machar who had ideological differences with John Garang', mobilized over 20,000 members of the SPLM-Nasir to attack Dinkas killing 2000 of them in the process (Wild et al, 2018). Despite offering a public apology in 2011, Machar's quest to ascend to the presidency continues to face challenges as this massacre has been used as a tool against his political ambitions (Chol, 2011: 3).

Final Roadmap to the 2018 Peace Deal

The collapse of the 2015 peace accord brokered by IGAD saw the continuation of fighting to the early months of 2018. Efforts to negotiate a new peace led to the reunification of Machar and Salva Kiir and the subsequent resumption of talks in May 2018 in Ethiopia. However, renewed negotiations faced several challenges key being the hard-liner positions adopted by both Machar and Kiir who rejected IGAD proposals on how to share government positions; system of governance; and, the organization and command of security[18].

Another agreement was adopted and signed in Khartoum between Salva Kiir and Riek Machar after renewed pressure from regional governments and the international community (The Star, June 2018). The agreement called for an immediate cease-fire throughout the country and provided a formula for sharing government positions. Unfortunately, hours after signing this new deal, the cease-fire was violated again and both sides accused each other of the same. The disquiet by Salva Kiir regarding the structure of government which was to consist of three vice-presidents and the opposition's rejection of delaying elections by three more years threatened this peace agreement from the onset. Additionally, the go-ahead for the government to resume oil exploration was also challenged by the opposition.

Other provisions of this agreement included:

- Establishment of a 120 days pre-transition period
- Conducting general elections after a 36-month transition period.
- Immediate removal of all troops from urban centers, and other social public spaces.
- Rebel groups involved in the negotiations were allocated a share of the executive, parliamentary, and one position of vice-president.

The latest Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS), was signed on 12th September 2018 in Addis Ababa. This signified the 12th time that Salva Kiir and Riek Machar signed a peace agreement. However, despite the return of relative peace in the country, the agreement has already faced violations. For example, on the 24th September 2018, reports of fighting between government forces and opposition militia groups were reported when in Koch County[19].

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[17] *Ibid*., § 50

[18] *Ibid*., § 50

[19] See, for instance, the 2000 United Nations Convention against Transnational Organized Crime, Article 10, para. 4 (entered into force on 29 September 2003 and whose number of States parties is 192); 2003 United Nations

Moreover, a report by the Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism (CTSAMVM), highlighted that four of the monitoring group members were assaulted in the Central Equatorial region by government forces in a report addressed to the IGAD Council of Ministers (Sudan Tribune, 18 December 2018). Whereas no major fighting has taken place between government and opposition forces, the deal has failed to comprehensively tackle the question of ethnicity as government positions have been distributed out to the Nuer and Dinkas leaving out other minority groups.

3.2 Challenges to post-conflict peace building efforts in South Sudan

One year since the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan, reports by international organizations such as Oxfam, Norwegian Refugee Council (NRC), Care Foundation, and Danish Refugee Council document that millions of civilians are still living as refugees. Moreover, existing conditions still do not favor the return of external refugees especially women who are vulnerable to sexual violence. The sluggish implementation of the peace agreement continues to breed uncertainty as to whether lasting peace will be achieved. As such there is a need for South Sudan and the international community to collaborate further in addressing existing challenges that continue to render the state vulnerable. These challenges include:

Financial Challenges:

The extensive humanitarian crisis facing the country should be addressed with more allocation of resources. According to the National Bureau of South Sudan (2019), inflation continues to range between 64-109 percent. Moreover, government debt to its GDP has also increased from 53% in 2018 to 64% in 2019. Lack of adequate financing threatens state-building in South Sudan because it impacts on the legitimacy of the government, its capacity, and its ability to respond to the needs of the people. As such, there needs to be adequate funds committed to long-term reforms in key sectors such as education, security, healthcare, and human resource development. The international community and transitional government should collaborate in providing finance and organizing activities such as cultural events that build on shared interests. Taking a lead in organizing and financing activities that provide a platform to highlight issues and problems that affect the society such as corruption and ethnicity without having to mention names or groups[20].

Weak Institutional Arrangements

The state-building process in South Sudan is threatened by weak institutional arrangements between various arms of government thereby interfering with the effective implementation of the peace agreement. This problem is further expounded by the tendencies of foreign donors to deal with specific institutions such as departments, rather than facilitate and develop cross-departmental collaboration. There is a need for crafting a new constitution that will outline the obligations and duties of the state to the people, and the responsibility of the people to the state at different levels of government[21]. The executive will constitute departments of Treasury, Internal Security, and Social Services that will restructure security organs, offer financial management, and reform health, education, and basic

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Convention against Corruption, Article 26, para. 4 (entered into force on 14 December 2005, whose number of States parties is 190).

[20] Adopted on 23 May 2023 and not yet entered into force, the Ljubljana-The Hague Convention opened for signature on 14 February 2024 and has already been signed by 32 States.

[21] *Ibid*., Article 10, commentary, § 1.

infrastructure sectors of the state. The legislative arm of the government should be tasked with passing laws, approval of government expenditure, and oversight of the executive. The judiciary will oversight justice and reconciliation.

Executive-Centric Approaches

Immense focus has been put on the few leading actors of the conflict. The focus on power sharing between the dominant Nuer and Dinka ethnic groups without addressing the underlying problems facing the society will remain a challenge to the establishment of a long-lasting peace for South Sudan. There is an urgent need to address the systemic marginalization of various ethnic communities through the decentralization of power and to ensure that state-building processes account for the needs of local communities. The structure of contemporary African societies is epitomized by ethnicity, social classes, and religious divisions[22].

These forms of allegiances can be properly captured in a social contract between two levels of government (national and local) and the people. The central government's authority can be limited to include issues of foreign policy, national security, defense, health, and education. Developed governments can be tasked with functions such as developing tourism, early childhood education, environmental management, culture, agriculture, and any other appropriate functions that require public participation. This will enhance accountability, develop a new culture of tolerance, and unity, and minimize risks associated with competition for power[23].

Weak Citizen Participation

Years of conflict have detached citizens from the government. To many, the government in itself has been the cause of all the violence and destruction. As such, many civilians do consider the existing government as illegitimate and one that cannot adequately address their views. It is therefore imperative that the government incorporate citizens in the formulation of government policy following internationally recognized practices of good governance. This will ensure that government policy is an initiative of the people. Building a culture of public participation in decision-making processes may have a direct impact on the socio-political and economic development of South Sudan. Civil society and the media are central to the success of citizen participation in government. More importantly, the government needs to embed a new understanding of statehood by revisiting the philosophical underpinnings of the state as construed on Westphalia assumptions. The peace deals proposed have been heavily influenced by Hobbesian arguments that emphasize the relevance of central authority to create order and ensure a long and good life[24]

Disarmament and Professionalization of the Military

The government is facing the challenge of weapon proliferation at the hands of civilians. Years of conflict with the North and additional civil conflict after independence enabled civilians to acquire weapons and ammunition. Weapons at the hands of civilians have often pushed the conflict further, especially through acts of retaliation. As such, a comprehensive disarmament process has to be conducted so that the widespread access to weapons by civilians is minimized. Heavy penalties and

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[22] *Ibid*., Article 10, commentary, § 1.

[23] See Article 9, para 2, and Article 11, para. 1, of the International Convention for the Protection of All Persons from Enforced Disappearance (entered into force on 23 December 2010, the number of States parties is 72);

[24] *Ibid*. Article 10, commentary, § 1.

punishments need to be stipulated under the law for anyone found culpable of violating peace agreements through the assistance of international and regional organizations such as the UN and AU[25]. The significance of professionalizing the army cannot be more emphasized. Security agencies and the Department of Defense need to be strengthened through suitable training of officers on human rights. Additionally, military or security officers found culpable of gross misconduct or human rights violations such as sexual crimes must be arrested and prosecuted. To attain this level of responsibility, the judiciary should be adequately staffed with adequate access to financial and material resources for the recruitment of sufficient judicial staff. Additionally, women's representation in the judiciary should be promoted and recruitment must be based on meritocracy with expertise on gender-based and sexual crimes as an added advantage during recruitment drives.

Conclusion

Conflict between government and opposition groups has often taken all attention at the expense of other existing legitimate grievances of South Sudanese which perhaps motivates them to engage in conflict. Even though there is a general perception that rebel groups are illegitimate, some represent genuine grievances of communities. Because of such concerns, this article emphasizes that provided there is no comprehensive approach to political processes in peacebuilding, dispensing government positions will only be a temporary solution to conflicts. The cycle of conflict and violation of several peace agreements is a testament that previous agreements did not account for the unique features of South Sudan. Ethnicity, marginalization, disarmament, and absence of functional institutions continue to hamper post-conflict peace-building processes. Indeed, there is a fundamental need for the transitional government to embark on genuine reforms that will lead to a new social contract between the people and the state.

In the presence of a fragile government, other actors such as local and international organizations can play a key role in peacebuilding. There is a real opportunity to empower local groups and strengthen grassroots conflict resolution mechanisms between communities. Whereas the conflict resolution process in South Sudan has largely adopted a top-down mechanism that focuses on the government, a majority of the conflict experienced between communities is a result of reconcilable inter-communal differences. The fragile nature of the state has only created an ideal environment for communities to exploit lawlessness and engage in activities such as cattle rustling and conflict over food and animal pasture. At this critical juncture of declining international prices of oil which accounts for 98% of the country's exports, an increasingly weak economy remains a big challenge. As such, the transitional government needs more support from both regional and international communities.

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2. Arms Control and the Challenges of Post-Conflict Reconstruction in South Sudan. (2015). Mary Kaldor, Journal of International Peacekeeping, 19(4), 345-367.